

**PATENT APPLICATION****IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re the Application of

**RECEIVED**

X.D. Hu et al.

Group Art Unit: 1793

JUN 23 2008

Application No.: 09/851,177

Examiner: Cam Nguyen

**OFFICE OF PETITIONS**

Filed: May 8, 2001

Docket No.: ZL494/01001

For: HIGH SURFACE AREA, SMALL CRYSTALLITE SIZE FOR FISCHER-TROPSCH  
SYNTHESIS**PETITION TO WITHDRAW PATENT APPLICATION FROM ISSUANCE AFTER  
PAYMENT OF THE ISSUE FEE UNDER 37 CFR 1.313 (c)(2)**Deputy Commissioner for Patent Examination Policy  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

In accordance with 37 CFR § 1.313 (c)(2), Applicant respectfully requests that the above-identified patent application be withdrawn from issuance. This application is scheduled to be issued on June 24, 2008 according to the Issue Notification mailed on June 4, 2008.

This Petition is being filed concurrently with a Request for Continued Examination and an Information Disclosure Statement pursuant to 37 CFR § 1.114. This Petition is also accompanied by the Petition Fee as required under 37 CFR 1.17(h).

**Statement of the Facts**

The above-identified patent application is assigned to Süd-Chemie Inc., Louisville, Kentucky, as evidenced by the Assignment recorded at reel/frame 011790/0332. Süd-Chemie recently decided to hire a registered patent attorney to serve as a full-time, in-house patent counsel for the company. Prior to this decision, Süd-Chemie's patent prosecution was being handled by several external patent attorneys.

As applicant's representative, effective June 2, 2008, I began reviewing the files to determine the status of Süd-Chemie Inc.'s pending patent applications. After review of the file history available in public PAIR for the above-identified application and the International

Application No. 09/851,177

patent applications that claim priority to this US application, I discovered that a Supplementary European Search Report issued January 16, 2006, and the references it disclosed, had not been submitted in this application. Several of the references cited in the Supplementary European Search Report were identified as "X" references.

Because it is the normal practice of Süd-Chemie to file all references cited in a communication from a foreign patent office that have not been previously cited to the USPTO, it was decided to file this petition with a Request for Continued Examination so that an Information Disclosure Statement could be filed herewith to have these references considered.

In view of the short time in which this Petition has been filed after discovering the omission, Applicant respectfully requests that this Petition be granted and that Patent Application 09/851,177 be withdrawn from issuance and prosecution reopened in accordance with the Request for Continued Examination filed herewith.

Moreover, in view of the short time before Patent Application 09/851,177 issues on June 24, 2008, this Petition is being submitted to the Office of Petitions via facsimile transmission.

Respectfully submitted,



Lynn E. Schwenning  
Registration No. 37,233  
Süd-Chemie Inc.  
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502.634.7232  
Lynn.schwenning@sud-chemie.com

Date: June 20, 2008

Attachments:

Petition Fee under 37 CFR 1.17 (h)  
Request for Continued Examination.

PTO/SB/17p (01-08)

Approved for use through 08/30/2008. OMB 0551-0031

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

**PETITION FEE**  
**Under 37 CFR 1.17(f), (g) & (h)**  
**TRANSMITTAL**  
 (Fees are subject to annual revision)

Send completed form to: Commissioner for Patents  
 P.O. Box 1450, Alexandria, VA 22313-1450

Application Number	09/851,177
Filing Date	05/08/2001
First Named Inventor	X. D. Hu
Art Unit	1792
Examiner Name	Cam Nguyen
Attorney Docket Number	2L494/01001

Enclosed is a petition filed under 37 CFR 1.313 that requires a processing fee (37 CFR 1.17(f), (g), or (h)). Payment of \$ 130 is enclosed.

This form should be included with the above-mentioned petition and faxed or mailed to the Office using the appropriate Mail Stop (e.g., Mail Stop Petition), if applicable. For transmittal of processing fees under 37 CFR 1.17(i), see form PTO/SB/17i.

**Payment of Fees** (small entity amounts are NOT available for the petition fees)

☐ The Commissioner is hereby authorized to charge the following fees to Deposit Account No. \_\_\_\_\_;  
☐ petition fee under 37 CFR 1.17(f), (g) or (h) ☐ any deficiency of fees and credit of any overpayments  
 Enclose a duplicative copy of this form for fee processing.

☐ Check in the amount of \$ \_\_\_\_\_ is enclosed.

☒ Payment by credit card (Form PTO-2038 or equivalent enclosed). Do not provide credit card information on this form.

**Petition Fees under 37 CFR 1.17(f): Fee \$400 Fee Code 1462**

For petitions filed under:

- § 1.36(a) - for revocation of a power of attorney by fewer than all applicants
- § 1.53(a) - to accord a filing date.
- § 1.57(a) - to accord a filing date.
- § 1.182 - for decision on a question not specifically provided for.
- § 1.183 - to suspend the rules.
- § 1.378(e) - for reconsideration of decision on petition refusing to accept delayed payment of maintenance fee in an expired patent.
- § 1.741(b) - to accord a filing date to an application under § 1.740 for extension of a patent term.

**Petition Fees under 37 CFR 1.17(g): Fee \$200 Fee Code 1463**

For petitions filed under:

- § 1.12 - for access to an assignment record.
- § 1.14 - for access to an application.
- § 1.47 - for filing by other than all the inventors or a person not the inventor.
- § 1.59 - for expungement of information.
- § 1.103(a) - to suspend action in an application.
- § 1.136(b) - for review of a request for extension of time when the provisions of section 1.136(a) are not available.
- § 1.295 - for review of refusal to publish a statutory invention registration.
- § 1.296 - to withdraw a request for publication of a statutory invention registration filed on or after the date the notice of intent to publish issued.
- § 1.377 - for review of decision refusing to accept and record payment of a maintenance fee filed prior to expiration of a patent.
- § 1.350(c) - for patent owner requests for extension of time in ex parte reexamination proceedings.
- § 1.958 - for patent owner requests for extension of time in inter partes reexamination proceedings.
- § 5.12 - for expedited handling of a foreign filing license.
- § 5.15 - for changing the scope of a license.
- § 6.25 - for retroactive license.

**Petition Fees under 37 CFR 1.17(h): Fee \$130 Fee Code 1464**

For petitions filed under:

- § 1.18(g) - to request documents in a form other than that provided in this part.
- § 1.84 - for accepting color drawings or photographs.
- § 1.91 - for entry of a model or exhibit.
- § 1.102(d) - to make an application special.
- § 1.138(c) - to expressly abandon an application to avoid publication.
- § 1.313 - to withdraw an application from issue.
- § 1.314 - to delay issuance of a patent.

*Lynn E. Schwennig*  
 Signature

LYNN E. SCHWENNIG  
 Typed or printed name

06/20/08  
 Date

37,233  
 Registration No., if applicable

This collection of information is required by 37 CFR 1.17. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 5 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Süd-Chemie Inc.  
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**CONFIDENTIAL AND PRIVILEGED  
ATTORNEY CLIENT COMMUNICATION**

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TO: U.S. Patent and Trademark Office  
Mail Stop  
Fax # 571-273-8300

FROM: Lynn E. Schwenning, Reg. No. 37,233

DATE: June 20, 2008

PAGES: ~~55~~<sup>18</sup> in total (including cover sheet)

RE: U.S. Application No. 09/851,177 "HIGH SURFACE AREA,  
SMALL CRYSTALLITE SIZE CATALYST FOR FISCHER-TROPSCH  
SYNTHESIS" Petition to Withdraw Patent Application from  
Issuance After Payment of the Issue Fee Under 37 CFR  
1.313 (c)(2) and  
U.S. Application No. 09/851,177 "HIGH SURFACE AREA,  
SMALL CRYSTALLITE SIZE CATALYST FOR FISCHER-TROPSCH  
SYNTHESIS"-- Request for Continued Examination (RCE)

Enclosed are:

- (1) Letter - Petition to Withdraw Patent  
Application from Issuance After Payment of  
the Issue Fee (2 pages)
- (2) Petition Fee form PTO/SB/17b (1 page)
- (3) PTO 2038 (Credit Card Payment Form) for  
petition
- (4) Request for Continued Examination (RCE)  
Transmittal form PTO/SB/30 (1 page)
- (5) Power of Attorney and Correspondence Address  
Indication Form PTO/SB/81 (1 page)
- (6) Letter - Information Disclosure Statement  
Under §1.97(b)(4) (2 pages)
- (7) Information Disclosure Statement form  
PTO/SB/08a (2 pages)

- (8) PTO 2038 (Credit Card Payment Form) for RCE  
(9) Supplementary European Search Report (4 pages)  
(10) Copy of WO 01/62381 A1 (14 pages)  
(11) Copy of article "Preparation and properties of supported cobalt catalysts for Fischer-Tropsch synthesis" (12 pages)  
(12) Copy of article "Characterization of cobalt Fischer-Tropsch catalysts I. Unpromoted cobalt-silica gel catalysts" (14 pages)

Copies of  
the references  
will be sent  
by first-class  
mail

CERTIFICATE OF FACSIMILE TRANSMISSION UNDER 37 CFR 1.8

I hereby certify that this paper is being facsimile transmitted to the Patent and Trademark Office on the date shown below.

Donna Ferrill  
Person Signing

Donna Ferrill  
Signature

June 20, 2008  
Date